

EXHIBIT 9

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 - - -

4 JOHN DOE NO. 1; JOHN DOE :
5 NO. 2; and NEW YORK STATE :
6 RIFLE AND PISTOL :
7 ASSOCIATION, INC. :
8 Plaintiffs, :
9 :
10 vs. : Civil Action No.
11 : 7:16-cv-8191
12 PUTNAM COUNTY; and MICHAEL:
13 C. BARTOLOTTI, in his :
14 official capacity as :
15 County Clerk for Putnam :
16 County, :
17 Defendants. :

18 Oral deposition of MARCI A. HAMILTON,
19 taken at the Residence Inn Philadelphia Center City,
20 One East Penn Square, Philadelphia, Pennsylvania, on
21 Wednesday, July 17, 2019, beginning at approximately
22 10:00 a.m., before Maureen E. Broderick, Registered
23 Professional Reporter and Notary Public in and of
24 the Commonwealth of Pennsylvania.
25

1 APPEARANCES

2 COOPER & KIRK

BY: DAVIS COOPER, ESQUIRE

3 BY: CHARLES J. COOPER, ESQUIRE

1523 New Hampshire Ave., N.W.

4 Washington, D.C. 20036

(202) 220-9660

5 pdcooper@cooperkirk.com

ccooper@cooperkirk.com

6

Counsel for Plaintiffs

7

8

9 NEW YORK ATTORNEY GENERAL'S OFFICE

BY: STAN O'LOUGHLIN, ESQUIRE

10 120 Broadway, 24th Floor

New York, NY 10271

11 (212) 416-8425

stan.o'loughlin@ag.ny.gov

12

Counsel for Defendants

13

14

15

16

17

18

19

20

21

22

23

24

25

1	EXAMINATION INDEX		
2	WITNESS		PAGE
3	Marci A. Hamilton		
4	By Mr. Cooper		4
5			
6	EXHIBIT INDEX		
7	NAME	DESCRIPTION	PAGE
8	Hamilton		
9	Exhibit 1	Report of Professor Hamilton	6
10	Exhibit 2	Curriculum Vitae of Marci A. Hamilton	7
11			
12	Exhibit 3	"Verdict"	13
13	Exhibit 4	"License To Carry"	75
14	Exhibit 5	State of New York Pistol/Revolver License Application	76
15			
16	Exhibit 6	Vox Article	78
17			
18			
19			
20			
21			
22			
23			
24			
25			

1

- - -

2

MARCI A. HAMILTON, having been

3

first duly sworn to tell the

4

truth, was examined and

5

testified as follows:

6

- - -

7

MR. O'LOUGHLIN: Usual stipulations, I

8

assume. And, yeah, the witness will read and

9

sign. Send that to me, please.

10

- - -

11

EXAMINATION

12

- - -

13

BY MR. COOPER:

14

Q Good morning, Professor Hamilton. My name

15

is Davis Cooper. I represent the plaintiffs in this

16

case, John Does No. 1 and 2. I'm going to be asking

17

you some questions today.

18

Would you please state your full name

19

for the record?

20

A Sure. Marci A. Hamilton.

21

Q Wonderful.

22

Before we begin, I just want to lay

23

down a few ground rules.

24

Please provide only verbal responses,

25

rather than head nods and things like that, so the

1 children's friends may have access to guns through
2 such licensed individuals, end quote.

3 Is it your opinion that access to the
4 information that Section 400 provides sufficiently
5 informs parents about their children's friends'
6 homes?

7 A No. It's just one piece of information
8 that a parent should be able to get.

9 Q And what other pieces of information
10 should a parent be able to get?

11 A Parents should be able to get criminal
12 background report. They should be able to go on the
13 web and be able to find out about the person who
14 lives next door to them or the person that wants to
15 play with their children. Every parent needs as
16 much information as possible.

17 Q Would you put any limits on the type of
18 information that should be available to the parents
19 of children when they're researching their
20 children's friends' home?

21 MR. O'LOUGHLIN: Objection.

22 You can answer.

23 THE WITNESS: Secrecy about dangers to
24 children have been so catastrophic to children
25 that what we really need is more information to

1 Do you think it's important for
2 parents to have access to information about long
3 guns in the homes of the friends their children will
4 play with?

5 A That would also be helpful, just like
6 information about whether or not the father is a
7 registered sex offender.

8 Q What about unregistered handguns?

9 A That information would be valuable.

10 Q So any information about any gun would be
11 valuable?

12 A It would be valuable to the parent trying
13 to make an informed decision.

14 Q And do you believe parents need
15 information about gun storage practices to decide
16 whether to permit their child to attend a playmate's
17 home?

18 A That would certainly help them.

19 Q For parents that want to know if there's a
20 firearm in a home where their children will spend
21 time, is the information made by public, made public
22 by Section 400 enough?

23 A It is enough for purposes of informing
24 them about some categories of gun owners.

25 Q Is it enough -- understood.

1 Is it enough for a parent who is
2 concerned about all firearms that a child friend's
3 parent may have in the home?

4 MR. O'LOUGHLIN: Objection.

5 You can answer.

6 THE WITNESS: Well, there will never be
7 perfect information. So it's part of the
8 information that a parent would want to protect
9 their children.

10 BY MR. COOPER:

11 Q But it's -- understood.

12 But it's not, it doesn't paint a
13 complete picture. It is insufficient to inform the
14 parent whether or not there are long guns in the
15 home, correct?

16 A It's not enough by itself to have a
17 universal set of beliefs about whether your child's
18 going to be safe in that home.

19 Q Understood.

20 How about with regards to firearms?

21 A It's not enough by itself, but it
22 contributes to the knowledge that the parent needs
23 to protect their child.

24 Q Given the limitations of Section 400's
25 public records requirement, what would you recommend

1 a parent of a child do before they allow their child
2 to spend time with a friend --

3 MR. O'LOUGHLIN: Objection.

4 You can answer.

5 BY MR. COOPER:

6 Q -- at a friend's home?

7 A On the one hand, they should avail
8 themselves of this opportunity to learn about the
9 people that are going to be with their children.
10 And they can certainly ask the parents of the other
11 children, and hope that they tell the truth.

12 Q Do you think it -- when you say "hope they
13 tell the truth," why -- could they be confident that
14 the other parent would tell the truth?

15 A Not necessarily.

16 Q Why not?

17 A Because not everybody tells the truth all
18 the time. It's just a human reality.

19 Q Does the fact that gun ownership is
20 controversial play a role in whether or not a parent
21 would tell the truth about whether or not they have
22 a gun in the home?

23 MR. O'LOUGHLIN: Objection.

24 THE WITNESS: I honestly don't know.

25 BY MR. COOPER:

1 Q Do you believe gun ownership is a
2 controversial activity?

3 MR. O'LOUGHLIN: Objection.

4 THE WITNESS: Gun ownership? It's just a
5 reality.

6 BY MR. COOPER:

7 Q Do you think that some people have
8 negative feelings about guns?

9 MR. O'LOUGHLIN: Objection.

10 You can answer.

11 THE WITNESS: I've really focused on what
12 the science is telling us, so what people's
13 feelings are is the pollsters and politics.
14 And with respect to the science, there is
15 reason to be concerned about guns near
16 children.

17 BY MR. COOPER:

18 Q So you -- so have you ever encountered any
19 person or seen any evidence that some people have
20 strong negative feelings about guns?

21 A It's in the newspapers. Sure. But that's
22 politics, and that's not what I work in.

23 Q Given that Section 400 provides
24 exemptions, does Section 400 offer parents and
25 caregivers the opportunity to know whether there are

1 individuals with a gun license in a home?

2 A It gives them the possibility of learning
3 that information, but it's not a guarantee. Parents
4 who treat it as a guarantee would be short changing
5 their children.

6 Q How so?

7 A Because it's under-inclusive.

8 Q Understood.

9 So you're saying a parent should not
10 rely on Section 400 alone?

11 A You should never rely on one piece of the
12 law alone, but it's a valuable piece of information.

13 Q Do you agree that parents in New York
14 cannot be confident that there are no guns in the
15 house if there's no permanent information available
16 under Section 400 for anyone that lives in that
17 house?

18 MR. O'LOUGHLIN: Objection.

19 You can answer.

20 THE WITNESS: They can rely on a positive
21 report, if they get one, that there is a
22 licensed gun owner in that home. They cannot
23 assume the opposite. They cannot assume that
24 because the licensed gun owners are listed,
25 that everybody else is.

1 BY MR. COOPER:

2 Q And they cannot assume that there's not
3 someone in the house that was granted an exception;
4 is that right?

5 MR. O'LOUGHLIN: Objection.

6 THE WITNESS: Or that there's someone in
7 the house that has a gun illegally.

8 BY MR. COOPER:

9 Q Do you know how many parents have access
10 to records under Section 400?

11 A I do not.

12 Q Do you know of one instance in which a
13 parent has access to records under Section 400?

14 A I do not know of any studies that have
15 been able to quantify that.

16 Q You're not aware of any studies, and
17 you're not aware of any stories or examples of --

18 A No.

19 Q Do you know how many parents would use,
20 would use Section 400 to learn more about the gun
21 safety of their children's friends' homes?

22 MR. O'LOUGHLIN: Objection.

23 You can answer.

24 THE WITNESS: I don't know how many. I
25 know that parents are increasingly asking for

1 tools to find out how safe their children's
2 environments are. So they're interested in sex
3 offender registries, and they'd be interested
4 in this information too.

5 BY MR. COOPER:

6 Q Do you have any proof of that?

7 MR. O'LOUGHLIN: Objection.

8 THE WITNESS: That parents are interested
9 in the prevention of harm, yes.

10 BY MR. COOPER:

11 Q Do you have any proof that parents are
12 interested in access to information related to the,
13 access to the names and addresses of handgun permit
14 holders?

15 MR. O'LOUGHLIN: Objection.

16 You can answer.

17 THE WITNESS: I think that's just common
18 sense.

19 BY MR. COOPER:

20 Q But beyond common sense, you don't have
21 any --

22 A No.

23 Q Is it possible that it would be
24 counterproductive or could be counterproductive for
25 a parent to rely on records provided under Section

1 400?

2 MR. O'LOUGHLIN: Objection.

3 You can answer.

4 THE WITNESS: Can you ask that again?

5 Sorry.

6 BY MR. COOPER:

7 Q Sure.

8 Is it possible that it would be
9 counterproductive for a parent to rely on records
10 provided under Section 400?

11 MR. O'LOUGHLIN: Objection. Note my
12 objection.

13 THE WITNESS: If a parent misunderstood
14 that Section 400 is somehow a blanket guarantee
15 of information, it could be a problem. But if
16 they understood that this is a subset of the
17 gun license owners in the state, then, no, I
18 don't think that it would be problematic for
19 them.

20 BY MR. COOPER:

21 Q How might it be a problem if they don't
22 understand the specific details of the types of
23 records that are available under Section 400?

24 A If they don't understand it, then they
25 might be misled into thinking that their children

1 are safe when they're not.

2 It's just like, you know, the whole
3 problem of the sex offender registry is
4 under-inclusive.

5 Q I see. So -- I understand.

6 So I guess what you're saying is that
7 a parent may rely on an inaccurate understanding of
8 Section 400, not ask another parent, and rely on
9 that information instead, and assume that the child
10 is safe related, in relation to guns at the friend's
11 house?

12 MR. O'LOUGHLIN: Objection.

13 You can answer.

14 THE WITNESS: If they understood the law
15 to be a blanket guarantee, then they could make
16 a false assumption about whether or not there's
17 going to be a gun in the house.

18 And then the second question is that
19 parent's decision as to whether or not they're
20 going to let their child be in a home with
21 guns.

22 BY MR. COOPER:

23 Q And a parent in that situation may not
24 seek additional information if they think that
25 Section 400 provides all information they need to

1 Create some valuable knowledge base for teachers,
2 school administrators, medical professionals,
3 therapists, and many other professionals regarding
4 gun availability to children at risk of either
5 domestic violence at home or at risk of harming
6 others, these individuals who are often the first to
7 be aware of a child suffering from depression,
8 suicide ideation, or plans to commit violence.

9 Is it the responsibility of teachers
10 or any other professional you list to alert
11 government authorities if they believe a child is at
12 risk of either domestic violence at home or at risk
13 of harming others?

14 A Yeah. They're mandated reporters.

15 Q What does that mean?

16 A Mandated reporter is a professional who is
17 required to report to either child protective
18 services or the police if they suspect that a child
19 is being abused or neglected.

20 Q Is there a specific point where that
21 responsibility to report kicks in?

22 (Interruption.)

23 (Off the record.)

24 BY MR. COOPER:

25 Q We were just talking about the

1 responsibility of teachers and other professionals
2 that deal with children to report suspicions of, you
3 know, or, I guess, report their beliefs that a child
4 is at risk of either domestic violence or at a risk
5 of harming others.

6 A Right.

7 Q When does that responsibility kick in? At
8 what point is a teacher or the professional required
9 to alert authorities?

10 A Well, it's state by state. But typically
11 if they have a suspicion that a child is either at
12 risk or putting other children at risk, they have an
13 obligation to go to the authorities.

14 Q So it's not optional?

15 A No, it is not optional.

16 Q It's not optional?

17 A No.

18 Q And the standard, as far as you understand
19 it, is belief that -- you know, suspicion --

20 MR. O'LOUGHLIN: Objection.

21 You can answer.

22 THE WITNESS: Right.

23 BY MR. COOPER:

24 Q Is it the same for all of those
25 professions, therapists and teachers and school

1 administrators?

2 MR. O'LOUGHLIN: Objection.

3 You can answer.

4 THE WITNESS: Yes.

5 BY MR. COOPER:

6 Q Does that responsibility cease if the
7 teacher or therapist suspects there are no guns in
8 the child's home?

9 MR. O'LOUGHLIN: Objection.

10 THE WITNESS: What I'm talking about in
11 this paragraph is that, if a teacher suspects
12 domestic violence or the child is a risk of
13 harming others, in those circumstances, they
14 should be ultra-concerned about whether or not
15 there are guns in the home. But those are the
16 two instances that I think guns in the home
17 would be the most disturbing.

18 BY MR. COOPER:

19 Q Sure. But does that, does that change
20 their responsibility to alert authorities?

21 A Their legal responsibility is to report
22 suspected child abuse or neglect, period.

23 Q Whether there were firearms in the home or
24 not?

25 A What there are firearms or any other risk

1 factor.

2 Q Is it your understanding that the
3 government authorities have ready access to the
4 information provided under Section 400?

5 A Yes, as I understand it, the authorities
6 do.

7 Q And is it your understanding that the
8 authorities have even more information available to
9 them than what is available under Section 400?

10 A Yes.

11 Q Do you think it is important for teachers
12 and therapists to know if there are long guns in a
13 child's home?

14 A It's important for them to know if there
15 are any guns when you have a risk of abuse or
16 neglect.

17 Q What changes if a teacher or other
18 official caretaker, you know, professional caretaker
19 suspects that a child's at risk and has a gun in the
20 home or not?

21 MR. O'LOUGHLIN: Objection.

22 THE WITNESS: The presence of a gun by
23 itself is not the trigger. The trigger is
24 whether or not there were unsafe circumstances.

25 BY MR. COOPER:

1 Q And how does a teacher or other caretaker,
2 therapist, learn of dangerous circumstances?

3 A Typically a child tells them.

4 Q And it's your position that the more
5 information a teacher or therapist have with regards
6 to any type of hazard is beneficial?

7 A That's right.

8 Q Do teachers and therapists know all of the
9 individuals that may be living or visiting a student
10 or patient's home?

11 A No.

12 Q And do they know all the adults who are
13 interacting with the child?

14 A No.

15 Q Can teachers and therapists safely assume
16 there are handguns in the home of at-risk children
17 if there are no handgun permit records under Section
18 400 available for anyone in that home?

19 A No. As I said before, this requirement is
20 under-inclusive, and so there are going to be
21 licensed gun owners that aren't part of this record.

22 Q Is it your position that once a teacher or
23 therapist or other professional caretaker determines
24 that a child is at risk of domestic violence at home
25 or at risk of harming others, they should go through

1 the process of accessing records before alerting
2 authorities?

3 MR. O'LOUGHLIN: Objection.

4 You can answer.

5 THE WITNESS: No.

6 BY MR. COOPER:

7 Q So they should not wait; they should, they
8 should act immediately, in your opinion?

9 A Under the mandated reporting law, they
10 don't have the option to wait.

11 Q Given that records made available by
12 Section 400 do not include records related to long
13 guns, do not include records related to unregistered
14 handguns, do not include records related to those
15 who qualify for exemptions, and are not immediately
16 available, what good are records under Section 400
17 to teachers and therapists?

18 MR. O'LOUGHLIN: Objection.

19 THE WITNESS: These records are a slice of
20 the information that's valuable to parents.

21 BY MR. COOPER:

22 Q You just said that the teachers and
23 therapists don't have an option, that once they
24 suspect the child is at risk, they are required to
25 alert authorities, totally independent of any gun

1 a valid license.

2 Q Just so I understand, that being true,
3 there's still -- you're saying that the public
4 records available under Section 400 should be taken
5 into consideration when a teacher or therapist is
6 concerned that a child is at risk?

7 A It's worth taking into consideration as a
8 positive indication of gun ownership. If the answer
9 is that there is no listing, it's not a guarantee of
10 no gun ownership.

11 Q Okay. Thank you.

12 Do you know how many teachers,
13 therapists or other professional caretakers have
14 obtained records under Section 400?

15 A I do not.

16 Q Do you know of any specific instances?

17 A I do not.

18 Q Do you have any reason to believe that it
19 has ever happened?

20 A I don't have any idea.

21 Q Later on, on page 7, in the first
22 paragraph, you state, quote: Knowledge of guns in
23 the home or in the ownership of others who deal with
24 children is critically important to putting together
25 the clues needed to prevent school shooting

1 assertion?

2 A Well, again, Section 400 offers a piece of
3 evidence, a fact about a handgun licensee. But
4 others, the press, social scientists, members of the
5 public, the authorities, they can put other evidence
6 together to figure out whether or not this is a
7 person who really should have had this gun.

8 And so it's just another part of the
9 puzzle of trying to understand who is appropriately
10 having a, owns a gun and who is, even if it's
11 appropriate, is dangerous if they have a gun.

12 Q So is this an opinion that Section 400
13 offers press, social scientists and members of the
14 public the opportunity to see who has been issued a
15 handgun license and to review the propriety of the
16 issuance of such license to see if it has been
17 issued appropriately or in accordance with the law,
18 and so is important, despite the efforts to block
19 transparency by those seeking secrecy?

20 MR. O'LOUGHLIN: Objection.

21 BY MR. COOPER:

22 Q Are you aware of any instances in which
23 members of the press, social scientists or the
24 public have used records, under Section 400, to
25 review the propriety of the issuances of licenses?

1 A No. That's why I say that it creates an
2 opportunity.

3 Q Would you be in favor of a public
4 disclosure regime like Section 400 for other types
5 of personal information that have a direct
6 relationship to public safety?

7 A If they have a direct relationship to
8 child safety, yes.

9 Q Would you be in favor of making a public
10 record of the names and addresses of people who have
11 communicable diseases?

12 MR. O'LOUGHLIN: Objection.

13 You can answer.

14 THE WITNESS: I don't even know. Never
15 thought about it.

16 BY MR. COOPER:

17 Q Well, as you sit here today, would you be
18 in favor of making a public record of the names and
19 addresses of those who have HIV?

20 A Only if it would be relevant to their
21 working with children. If it would put children at
22 risk, then I think that should be part of an
23 employee record.

24 Q What about those who may have HIV in the
25 home of a friend, of a child's friend's house?

1 as well.

2 MR. COOPER: Same. Draft, as well.

3 (Witness excused.)

4 (Deposition concluded at 12:09 p.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

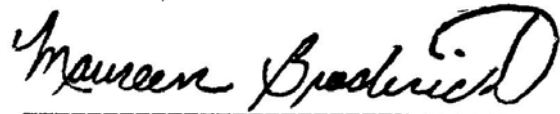
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

COMMONWEALTH OF PENNSYLVANIA :
:
COUNTY OF PHILADELPHIA :

I, MAUREEN BRODERICK, Registered
Professional Reporter - Notary Public, within and
for the Commonwealth of Pennsylvania, do hereby
certify that the proceedings, evidence, and
objections noted are contained fully and accurately
in the notes taken by me of the preceding
deposition, and that this copy is a correct
transcript of the same.



MAUREEN BRODERICK
Registered Professional
Reporter - Notary Public